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BANNER & WITCOFF, LTD
ATTORNEYS FOR CLIENT NUMBER 007412
1100 13TH STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

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In re Application of	:
James McNabb, et al.	:
Application No. 09/915,287	: DECISION ON PETITION
Filed: July 27, 2001	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 007412.00314	:

This is a decision on the request for a Corrected Filing Receipt which is being treated as a petition under 37 CFR 1.78(a)(3), filed October 7, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1), (2) and (3) above.

The issue fee in this case was paid on October 16, 2009. Therefore, it is conceivable that the application will issue before either the filing or the granting of a renewed petition under 37 C.F.R. § 1.78(a)(3). In such case, submission of a certificate of correction (along with the \$100

processing fee) will be required as a condition for granting the petition under 37 C.F.R. §1.78(a)(3).

Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions